

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICOLE MARIE BROCKIE,

Defendant.

CR-15-05-GF-BMM

**FINDING AND
RECOMMENDATION**

Defendant Nicole Marie Brockie (“Ms. Brockie”) has moved for an early termination of her current term of probation. (Doc. 38). The Government opposes the motion. (Doc. 41). Ms. Brockie’s probation officer also opposes the motion. (Doc. 41-1). The Court conducted a hearing on the motion on April 4, 2018. For the reasons below, the Court will grant Ms. Brockie’s motion.

Ms. Brockie was charged with Theft of Federally Provided Welfare Benefits by Fraud, in violation of 18 U.S.C. § 641, Federal Welfare Assistance Fraud, in violation of 18 U.S.C. §§ 1001(a)(2), (3), and Theft From an Indian Tribal Organization, in violation of 18 U.S.C. § 1163. Ms. Brockie pleaded guilty to Federal Welfare Assistance Fraud on May 14, 2015. (Doc. 23). The Court sentenced the Ms. Brockie to three years of probation on August 27, 2015 and ordered restitution in the amount of \$13,135.00. (Doc. 29). Ms. Brockie has completed roughly around two and a half years of her sentence.

Federal law authorizes a defendant to move for termination of his or her

probation after successfully completing one year . . . if such action remains warranted by the conduct of the defendant and the interests of justice. 18 U.S.C. § 3564(c). The Court must consider the factors in 18 U.S.C. § 3553 when evaluating whether to terminate a term of probation.

Ms. Brockie cites to the several facts in support of her motion. Ms. Brockie states there has never been a “12C petition to revoke probation” filed against her. Ms. Brockie is employed at the Fort Belknap Indian Community Commodity program. She has completed a Cognitive Restructuring/Thinking Error Program and earned an Associate of Arts degree from Montana State University-Northern. Ms. Brockie has further earned recognition from the Fort Belknap Tribal Housing Department for maintaining a zero account balance.

Ms. Brockie admitted at hearing that her probation had not been “perfect,” as her probation officer noted some minor non-compliance issues while on probation. (Doc. 41-1). None of these non-compliance issues, however, ever rose to the level of being addressed by the Court. Furthermore, the Court finds that the interests of justice warrant an early termination of her sentence. The United States notes that Ms. Brockie still has restitution to pay, and that she has a criminal history category of III. However, Ms. Brockie’s restitution obligation remains regardless of her early release, and Ms. Brockie has demonstrated a drive to succeed while on

probation. Ms. Brockie has maintained gainful employment, has completed a Cognitive Restructuring/Thinking Error Program, earned an associate degree, and has been recognized by the Fort Belknap Tribal Housing Department. (Doc. 39 at 2). All of which demonstrate that Ms. Brockie respects the rule of law and that in this specific case, her probation should be terminated. Early termination of probation serves the interests of justice in Ms. Brockie's case, and judicial resources would be better spent elsewhere.

Therefore, the Court finds:

1. Ms. Brockie has successfully completed one year of her term of probation.
2. Early termination is warranted by the conduct of the defendant and the interests of justice.

The Court recommends:

1. Ms. Brockie's Motion for Early Termination of Probation (Doc. 41) should be GRANTED.

DATED this 29th day of May, 2018.



John Johnston
United States Magistrate Judge